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TO: <u>Examiner Jeanine Goldberg</u>	FROM: <u>Lawrence Harbin</u>
COMPANY: <u>USPTO</u>	DATE: <u>2/4/2003</u>
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PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
R.F.: <u>Serial No. 09/741,426</u> YOUR REFERENCE NUMBER:	

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Request for information and reconsideration.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re PATENT APPLICATION of:****Akintade Oyedele Dare.**

Serial No.: 09/741,426

Group Art Unit: 1634

Filed: December 21, 2000

Examiners: Goldberg

For: Method and Kit for Quantitating
Genomic DNA Damage and Repair
Capacity

February 4, 2003

REQUEST FOR RECONSIDERATION**AFTER FINAL**Commissioner of Patent
and Trademarks
Washington, D.C. 20231

Sir:

In reply to the final Office Action mailed January 21, 2003, applicant requests reconsideration.

REMARKS

The claims stand rejected under 35 USC §103(a) based on, *inter alia*, the Pierce Instructions.

At page 2 of the detailed action, “the examiner determined that the information [Pierce Instructions] was available on February 1997.” However, to support a rejection based on prior art, the information must be *publicly* available. See §2128, MPEP. Thus, a proper rejection has not been made.

Further, 37 CFR §1.104(d)(1) provides “[i]f a printed publications are cited, the ... place of publication, or a place where a copy can be found, will be given.” Based on the